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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/714,317	11/16/2000	Yoshiyuki Takaku	7217/63016	6477
7590 10/28/2004				
JAY H. MAIOLI Cooper & Dunham LLP 1185 Avenue of the Americas New York, NY 10036			EXAMINER SHIN, CHRISTOPHER B	
			ART UNIT 2182	PAPER NUMBER

DATE MAILED: 10/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/714,317

Applicant(s)

TAKAKU ET AL.

Examiner

Christopher B Shin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 August 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4 and 6-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4, and 6-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. The RCE/Amendment received August 9, 2004 has been entered and carefully considered. Claims 1-2, 4, and 6-58 remains in the application. A claim 3 and 5 has been cancelled, and claims 1-2, 4, 6-12, 24, 29, 32, and 39 have been amended. The amendment did not clarify the confusion raised by the examiner for the following reasons.
2. In the last office action, the examiner noted that *"the present claims are somewhat, unnecessarily misleading and confusing, due the language usage, though the examiner did not rejected under 35 USC 112 2<sup>nd</sup> paragraph. The examiner kindly recommends the applicant to avoid using long sentences with repetitive words, as presently claimed"*. The same problem still exists, and examiner believes that this will cost more time in the end for the patent office and the applicant. The examiner will discuss further discuss in the Response to Argument section.
3. The examiner notes that one of the examiner cited reference Humpleman et al. (6,466,971) teaches the general back ground teachings that are very similar the claimed system environment and also similar to the Venners et al. The examiner found more references that are similar to the claimed system environment that the examiner relies as the well-known background common knowledge.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 58 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 58, line 18, the phrase "other apparatus that transmitted said notifying command" lacks functional antecedent basis, i.e., the phrases "changed status" & "other apparatus" lack proper and clear antecedent basis. no such command was transmitted by an "other apparatus". What is the functional and structural relationship between "at least one other apparatus" and "other apparatus"?

#### ***Response to Arguments***

6. On pages 23 (line 16) – 30 (line 8), the examiner notes that:
- a. The applicant presented the arguments on pages 23-30 for all of the independent claims 1, 11, 24, 29, 32, 39, 57 and 58. Since the applicant equally applies to the entire arguments to all of the pending independent claims, the examiner would like to pick one of the independent claims 57 for the following response to arguments.
  - b. As discussed in the previous office actions regarding the claims being misleading and somewhat redundant that may cause confusions (not necessarily falls under the 35 USC 112 2<sup>nd</sup> rejection problem); the examiner has given a extremely broad interpretations, because the claims are extremely broad, which the applicant is entitled, and the claims can have many different interpretations,

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also because the claims are extremely broad. For this reason, the examiner would like to concentrate on discussing with the independent claim 57 for the following response to arguments. The "claim 57" will be equally referred as "claims " for the discussion purposes.

c. On pages 23 (last paragraph) –24 (first paragraph), the applicant argued that:

- *"The present invention relates to a communication method and apparatus for use in performing data communication among devices connected by an IEEE 1394 bus.*
  - Most claims do not specifically and clearly support such argument (i.e., no IEEE1394 bus claimed, no communication devices claimed-the term devices are not consistent with the claimed one other "apparatus")
- *An input device receives stream data from an output device connected to a network.*
- *The output device may transmit a command to set the input device such that the input device may input the data in an input section of the input device.*
  - The claims do not specifically and clearly support such argument (i.e., no separate output device and input device are claimed, rather claims input and output device communicating with one other apparatus.)
- *In response to the command, data may be prepared that indicate that the input setting is at least temporarily disabled.*

- Most claims do not specifically and clearly support such argument. The claim 57
- *When the device that transmitted the command receives the response data indicating the disabled state corresponding processing may be executed, allowing determination of whether the input device is ready to receive input stream data.”*
  - Most claims do not specifically and clearly support such argument

As can be from the above comparison with the claims, the applicant's argument lacks support from the claims; not only that, the substance of the argument lacks consistency from & with the claim.

d. As for the rest of the arguments on pages 24-30, the applicant spent a lot of details of the Venners et al & Humpleman et al. teaches, but such detailed arguments are not supported by the present claims for the similar reasons. The examiner strongly suggests the applicant to carefully read what the claim 57 actually reads with a broadest reasonable possible interpretation in mind.

e. On page 30, lines 6-8, the applicant argued that there was no motivation to combine the elements. The examiner notes that the rejection is based on the Venners reference alone with the help of a typical well known teachings of Humpleman which is only mentioned /used to support the teachings of well-known prior art.

f. On pages 30 (line 11) – end, the examiner strongly disagrees with the applicant's argument. It is the examiner position to state that, it is the applicant's

duty/responsibility to file a U.S. Patent Application that is written in clear English without major problems under 35 USC 112 2<sup>nd</sup> paragraph. More importantly, the originally filed claims should be clear enough for the examiner to properly determine the metes & bounds of the invention claimed for the proper patentability determination; however, the examiner was unable to do so due to the problems with originally claims. In addition, it is clear from the record that the amendment of the claims received November 16, 2000 was much better & searchable for the metes and bounds of the invention claimed. This means, the applicant could have and should have originally filed for the U.S. Patent Application that is clear and better. Furthermore, as can be seen from the first office action, the examiner unproductively spent much of the time trying to understand the metes and bounds of the claims with the problems being indefinite for failing to particularly point out and distinctively claim the subject matter which applicant regards as the invention. In addition, the applicant's argument is moot in view of filing of RCE.

g. For the above reasons, the examiner basically maintains the art rejection as follows. The examiner strongly applicant to carefully consider the examiner's response to argument before responding to this office action.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Venners et al. (4,855,730).

a. In figures 1-2 and the respective description sections, the Venners reference teaches the claimed limitations as follows & the examiner would like to discuss the apparatus version claims first.

Claims 24-29                      Venners et al.

- A communication apparatus connected to a predetermined network
  - Feature of system of figure 1
- Input and output means (I/O) for communicating with at least one other apparatus connected to said network
  - Feature of top section (one-third section) of the figure 1
- Communication control means for detecting a command received at said input and output means requesting that said apparatus enable said input and output means to receive stream data from a predetermined apparatus and enabling said input and output means to transmit data indicating that a stream data configuration is at least temporarily disabled to an other apparatus that transmitted said command when an input of said stream data is at least temporarily disabled
  - Feature of column 5, lines 14-50 in combination with the rest of the teachings of Humpleman et al
- Command control means for enabling said input and output means to output a command requesting that said at least one other apparatus connected to said network enable an input of stream data, whereby when it is determined by a response to said command that said at least one other apparatus is at least temporarily not able to receive said command output of said stream data from said input and output means is paused until said at least one other apparatus is able to receive said command
  - Feature of column 5, lines 14-50 in combination with the rest of the teachings of Humpleman et al
- Limitations of claims 25-28 & 30-31
  - Feature of column 5, lines 14-50 in combination with the rest of the teachings of Humpleman et al.

Claims 32-38                      Venners et al.

- A communication apparatus connected to a predetermined network
  - Feature of system of figure 1



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- Input and output means (I/O) for communicating with at least one other apparatus connected to said network
  - Feature of top section (one-third section) of the figure 1
- Communication control means whereby when a first command requesting that said apparatus enable said input and output means to receive stream data from a predetermined other apparatus is detected at said input and output means a connection is established within said communication apparatus to allow said input and output means to input said stream data, a connection between said communication apparatus and said predetermined other apparatus is executed
- Data notifying that processing has been completed are transmitted from said input and output means to said predetermined other apparatus when said processing is completed
  - Feature of column 5, lines 14-50 in combination with the rest of the teachings of Humpleman et al
- Communication control means whereby when a second command for executing a predetermined confirmation indicating that said communication apparatus is ready to input said stream data is detected data notifying that said communication apparatus is ready to input said stream data is transmitted from said input and output means to an other apparatus that transmitted said second command
  - Feature of column 5, lines 14-50 in combination with the rest of the teachings of Humpleman et al.
- Limitations of claims 33-38
  - Feature of column 5, lines 14-50 in combination with the rest of the teachings of Humpleman et al.

Claims 39-56                      Venners et al.

- A communication apparatus connected to a predetermined network
  - Feature of system of figure 1
- Input and output means (I/O) for communicating with at least one other apparatus connected to said network
  - Feature of top section (one-third section) of the figure 1
- Communication control means for controlling said input and output means to output a first command requesting said at least one other apparatus to enable said at least one other apparatus to input stream data and to output a second command for confirming whether said at least one other apparatus is ready to input said stream data
  - Feature of column 5, lines 14-50
- Wherein (I/O) retransmits said second command when said communication control means determines by a response based on said second command that said at least one other apparatus is not ready to input said stream data
  - Feature of column 5, lines 14-50
- Limitations of claims 41-56
  - Feature of column 5, lines 14-50 in combination with the rest of the teachings of Humpleman et al.

Claims 57-58                      Venners et al.

- A communication apparatus connected to a predetermined network
  - Feature of a system of figure 1
- Input and output means (I/O) for communicating with at least one other apparatus connected to said network
  - Feature of top section (one-third section) of the figure 1
- Communication control means for controlling said I/O to transmit data notifying that said at least one other apparatus is ready to transmit stream data when said communication control means receives at said input and output means a command for confirming whether said at least one other apparatus is ready to transmit said stream data
  - Feature of column 5, lines 14-50
- Communication control means for controlling said I/O to transmit data indicating a status in which said at least one other apparatus is ready to transmit stream data to said command transmission source ... said notifying command
  - Feature of column 5, lines 14-50

b.        As for the method claims 24-58, it appears that the Venners patent teachings do not exactly teach the claimed communication control means in terms of specific types of data that are being communicated over the bus/network. However, the Venners reference does teach all of the substantially identical handshake protocols for communicating data among devices on the bus/network for the purpose of controlling communication (i.e., the claimed communication control means). Therefore, it would have been obvious at the time the invention was made to one having ordinary skill in the art to come up with the claimed invention from the teachings of the Venners for the motivation and purpose of communication among devices on the bus/network, as discussed above.

c.        As for the claims 1-23 are the method version of the above-discussed claims 24-58, therefore, the teachings of the method claims are similarly applied.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher B Shin whose telephone number is 571-272-4159. The examiner can normally be reached on 6:30-5:00 M,Tu,Th,F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher B Shin  
Primary Examiner  
Of 2182

A handwritten signature in black ink, appearing to read 'Chris Shin', written in a cursive style.

October 26, 2004  
cbs